

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

SB 1791 - HB 1936

March 10, 2022

SUMMARY OF BILL: Requires a defendant to receive a bail hearing to address any conditions of release within 48 hours of arrest or being held to answer for any bailable offense, unless the defendant waives the right to such hearing. Requires the magistrate to determine by clear and convincing evidence that conditions on a release on recognizance will not reasonably assure the appearance of defendant as a condition to require bail to be given.

Requires, if a defendant was acquitted, the defendant's charge is dismissed, a no true bill is returned by a grand jury, the defendant is arrested and released without being charged with an offense, or the court enters a nolle prosequi in the defendant's case, the bondsman to return the premium fee paid by the defendant, but may retain an administrative fee of no more than one percent of the amount of the face value of the bond. Makes other clarifications about what a professional bondsman or an agent of an insurance company making criminal appearance bonds may charge for the service provided.

Prohibits a bondsman from wearing, carrying, or displaying any uniform, badge, shield, card, or other item with any printing, insignia, or emblem that purports to indicate the bondsman is an employee, officer, or agent of any local, state, or federal government or any political subdivision of any local, state, or federal government.

FISCAL IMPACT:

NOT SIGNIFICANT

Assumptions:

- Pursuant to Tenn. Code Ann. § 40-11-105(a), when the defendant has been arrested or held to answer for any bailable offense, the defendant is entitled to be admitted to bail by the committing magistrate, by any judge of the circuit or criminal court, or by the clerk of any circuit or criminal court.
- Requiring a bail hearing occur within 48 hours of arrest may strain the court clerks of some jurisdictions. However, based on information provided by the Court Clerks Association, the accelerated workload can be accommodated with existing personnel and resources.
- Tennessee Code Annotated states absent a showing that the conditions on a release on recognizance will reasonably assure the appearance of a defendant as required, the magistrate is required bail to be given. Requiring clear and convincing evidence that

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conditions on a release on recognizance will not reasonably assure the appearance of defendant is not anticipated to significantly reduce the number of cases for which bail is required.

- The provisions related to what a bondsman or agent may charge for their services pertain to the business of private parties; any related impacts will be borne by those parties.
- Prohibiting a bondsman from imitating an affiliation with a public agency will not result in a fiscal impact to state or local government.
- Any fiscal impact to state or local government is estimated to be not significant.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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